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Rulemaking on the Commission's Own  
Motion into Reliability Standards for  
Telecommunications Emergency Backup  
Power Systems and Emergency Notification  
Systems Pursuant to Assembly Bill 2393.

R.07-04-015  
(April 12, 2007)

**COMMENTS OF THE DIVISION OF RATEPAYER ADVOCATES  
ON ORDER INSTITUTING RULEMAKING**

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May 4, 2007

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## **I. INTRODUCTION**

Pursuant to Rule 6.2 of the Commission's Rules of Practice and Procedure (Rules), the Division of Ratepayer Advocates (DRA) submits these Comments on the Order Instituting Rulemaking To Implement Assembly Bill 2393 (rulemaking or OIR) in the above-captioned investigation.<sup>1</sup> DRA applauds the Commission's commitment to systematically address the important issues raised by AB 2393. In particular, DRA supports holding separate workshops on the three areas of inquiry identified in AB 2393, issuing informational requests to relevant parties after the workshops are held, and adopting the procedural schedule proposed in the OIR. DRA also recommends, however, that the workshops be transcribed and that parties be given the opportunity to provide input into the development of the informational requests.

## **II. BACKGROUND**

AB 2393 identifies three areas of inquiry for the Commission:

(1) the reliability of backup power systems for telephone services on the premises of residential and small business customers, and the adoption of possible performance standards;<sup>2</sup>

(2) the current emergency notification systems using automatic dialing-announcing devices, and the need for standardized protocols (in consultation with the Office of Emergency Services and the Department of General Services), and;<sup>3</sup>

(3) the reliability of backup power systems for telephone services not located on customer premises, and the adoption of possible performance standards.<sup>4</sup>

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<sup>1</sup> Order Instituting Rulemaking To Implement Assembly Bill 2393 (filed April 12, 2007; mailed April 17, 2007) (OIR or rulemaking).

<sup>2</sup> See, e.g., PU Code § 776 (Section 1 of AB 2393); OIR at 5-7.

<sup>3</sup> See, e.g., PU Code § 2872.5 (Sec. 2 of AB 2393); OIR at 7-8.

<sup>4</sup> See, e.g., PU Code § 2892.1 (Sec. 3 of AB 2393); OIR at 8-10.

The OIR establishes three “technical workshops with subject matter experts” during the month of June, followed by “informational requests” issued by the Communications Division (CD) staff to respondents (telecommunications service providers or users of emergency notification systems, as appropriate).<sup>5</sup> After receiving responses to the information requests, CD staff will prepare a draft report to the Legislature.<sup>6</sup> Parties will have the opportunity to file comments on the draft, as well as on a revised draft, before the Commission submits the report to the Legislature by January 1, 2008, as mandated by AB 2393.<sup>7</sup> The Commission’s own proposed decision in this proceeding is scheduled to be mailed in April 2008, and adopted in May 2008.<sup>8</sup>

### **III. DISCUSSION**

#### **A. DRA Supports The Planned Workshops**

The OIR establishes a reasonable process for obtaining information from interested parties. Not only is much of the information technical, it is also solicited from a variety of parties that may not be familiar with formal Commission processes.

The Commission has long found workshops appropriate for addressing issues that are highly technical in nature.<sup>9</sup> In this proceeding, the Commission has been asked to consider several technical issues, including: the minimum time during which backup power should be available and other performance criteria for backup power; the use of zero greenhouse gas emission fuel cell systems to replace diesel backup power systems, and; standards for emergency notification via automatic dialing-announcing devices.

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<sup>5</sup> OIR at 5-10.

<sup>6</sup> *Id.*

<sup>7</sup> *Id.*

<sup>8</sup> *Id.* at 14.

<sup>9</sup> For example, in R.02-01-025, the Commission held valuable technical workshops on May 29-30, 2007, to address issues relating to the implementation of “211” dialing. In R.98-09-005, a workshop held on Aug. 25, 2001 to consider the technical issues regarding whether wireless carriers had the ability to offer Universal LifeLine Telephone Service (ULTS) was exceedingly beneficial.

Workshops are also appropriate in this case because some of the issues are sufficiently unfamiliar to the Commission that issuing “informational requests” prior to workshops is likely to be an inefficient use of resources for both the Commission and respondents; put another way, the Commission may not even know the nature or extent of what it doesn’t yet know.

Furthermore, the rulemaking will seek information not just from telecommunications providers that may appear often in front of the Commission, but also from “users of emergency notification systems (such as law enforcement agencies, fire protection agencies, public health agencies, public environmental health agencies, city or county emergency service planning agencies).”<sup>10</sup> For such entities, a workshop will allow informal communication that does not require familiarity with Commission practice or procedure.<sup>11</sup>

Finally, while DRA supports the workshops proposed by the OIR, DRA strongly recommends that court reporters be present to memorialize the technical discussions at the workshops. Having workshop transcripts to review would be very helpful to workshop participants who want to cite in their comments to statements made during the workshops, to parties who do not attend the workshops but wish to provide comments, and to the Commission staff assigned to draft the report.

## **B. DRA Supports The Procedural Schedule**

At this time, DRA supports the proposed schedule as being reasonable. While AB 2393 requires a report to the Legislature by January 1, 2008, the schedule for this proceeding allows the Commission to finalize a decision on the issues raised by AB 2393 in early 2008.<sup>12</sup> The Commission has adopted compressed schedules in other cases that have challenged the resources of both parties and the Commission. DRA therefore

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<sup>10</sup> OIR at 7-8.

<sup>11</sup> For example, the procedures for filing formal comments are unique to the Commission and require close review of the Commission’s Rules of Practice and Procedure.

<sup>12</sup> OIR at 13-14.

applauds the measured steps adopted in this rulemaking that will allow for widespread participation and deliberation on issues that are relatively new to the Commission. This schedule will allow time to harness inter-disciplinary efforts between telecommunications and energy practitioners, as well as to collaborate with other state and local agencies as appropriate.<sup>13</sup>

**C. DRA Recommends Allowing Public Input Before Issuance Of Informational Requests**

The schedule in the OIR anticipates that CD staff will develop informational requests based on the information gathered through the workshops on June 5<sup>th</sup>, 6<sup>th</sup>, and 19<sup>th</sup>, and will issue the requests to relevant respondents on July 13<sup>th</sup>. The schedule does not provide parties an opportunity to provide input into the informational requests, however. DRA recommends that parties be allowed to provide their proposals on what the informational requests should contain by e-mailing their comments to CD staff and the service list on June 26<sup>th</sup>. This would give parties 7 calendar days after the last workshop to develop their proposals, and would allow CD staff an additional 17 calendar days to mail the informational requests.

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<sup>13</sup> AB 2393 requires the Commission to consult with the Office of Emergency Services and the Department of General Services to consider standardized emergency notification protocols (Sec. 2 of AB 2393), and the OIR proposes the involvement of local agencies that are users of emergency notification systems (OIR at 7-8).

#### **IV. CONCLUSION**

For the reasons discussed above, DRA urges the Commission to modify the OIR in the manner discussed above.

Respectfully submitted,

/s/ NATALIE D. WALES

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**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served a copy of “**COMMENTS OF THE DIVISION OF RATEPAYER ADVOCATES ON ORDER INSTITUTING RULEMAKING**” in **R.07-04-015** by using the following service:

[ X ] **E-Mail Service:** sending the entire document as an attachment to all known parties of record who provided electronic mail addresses.

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Executed on **May 4, 2007** at San Francisco, California.

/s/ Nelly Sarmiento

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Nelly Sarmiento

**N O T I C E**

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